HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 30, 2019
86th Legislature, Number 55
The House convenes at 10 a.m.
Part One

The bills and joint resolutions analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 55

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, April 30, 2019
86th Legislature, Number 55
Part 1

SUBJECT: Amending the Texas Constitution to allow a precious metal tax exemption

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Burrows, Guillen, Bohac, Cole, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

1 absent — Martinez Fischer

WITNESSES: For — Tom Glass, Right to Use Cash; (*Registered, but did not testify*: Jake Posey, Dillon Gage Metals)

Against — None

On — (*Registered, but did not testify*: Tom Smelker, Comptroller of Public Accounts)

BACKGROUND: Tex. Const. Art. 8, sec. 1 requires all real and tangible personal property in the state to be taxed in proportion to its value unless exempt as required or permitted by the Constitution.

DIGEST: CSHJR 95 would allow the Legislature by general law to exempt from property taxation precious metal held in a precious metal depository in the state. The Legislature by general law could define "precious metal" and "precious metal depository" for purposes of this exemption.

The ballot proposal would be presented to voters at an election on November 5, 2019, and would read: "The constitutional amendment authorizing the legislature to exempt from ad valorem taxation precious metal held in a precious metal depository located in this state."

SUPPORTERS SAY: CSHJR 95 would allow the Legislature to provide certainty to accountholders and investors by creating a property tax exemption for precious metals held in a depository in the state. Other states do not tax precious metals, and creating this exemption would enable Texas

depositories to be more competitive. The state already exempts certain precious metals from sales and use tax, so CSHJR 95 merely would allow the Legislature to extend this treatment to property tax.

OPPONENTS SAY:

CSHJR 95 could be perceived as allowing the government to pick winners and losers in the economy by using the tax system to encourage people to purchase and hold precious metals in depositories in the state.

NOTES:

According to the Legislative Budget Board, CSHJR 95 would have no fiscal implication to the state other than the cost for publication of the resolution, which would be $177,289.

HB 2859 by Capriglione, the enabling legislation for CSHJR 95, is scheduled for second reading consideration on today's calendar.

SUBJECT: Modifying the Galveston police pension fund

COMMITTEE: Pensions, Investments, and Financial Services — committee substitute recommended

VOTE: 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu

0 nays

WITNESSES: For — James D. Yarbrough, City of Galveston; Geoff Gainer, Galveston Police Employee's Retirement (*Registered, but did not testify*: Craig Brown, Daniel J. Buckley, Donald S. Glywasky, and Brian Maxwell, City of Galveston)

Against — None

BACKGROUND: Vernon's Texas Civil Statutes art. 6243p governs the police pension fund for a municipality that has a population of more than 50,000 but less than 400,000, operates under a city manager form of government, and has never elected to join, adopted, or been required to operate under a public retirement system created by a state statute applicable to municipal police officers (Galveston).

DIGEST: CSHB 2763 would increase member contributions, revise the process for modifying benefits, and make other changes to a municipality's police pension fund governed by Vernon's Texas Civil Statutes art. 6243p.

Contributions. Subject to modification by the board of trustees, each member of the police pension fund would be required to contribute to the fund. The municipality would be authorized to deduct 12 percent of the member's monthly wages as contributions to the fund for service rendered after August 31, 2019.

Subject to modification by the board, and not later than the 15th business day after the first day of the municipality's fiscal year, the municipality would be required to contribute to the fund 18 percent of payroll based on

authorized positions, as determined by the municipality.

No later than December 31 of the year following the year in which the municipality made such a contribution, the municipality would be required to calculate the difference, if any, between the amount of the municipality's actual payroll for the applicable fiscal year and the amount of payroll on which its contribution was based. The municipality then would have to contribute to the fund an amount equal to the municipality's contribution rate multiplied by the amount of difference.

Liability. The municipality would be required to pay the pension fund money in a sufficient amount to offset any negative financial impact to the fund, as determined by the actuary for the fund, caused by a unilateral action taken by the municipality, including a reduction by the municipality in the number of the municipality's police officers.

The actuary for the fund would be required to annually determine whether a reduction in the number of municipal police officers by a municipality had a negative financial impact on the fund.

If the actuary determined a negative financial impact to the fund had occurred, the municipality would be required to provide additional funding to the fund in the time frame prescribed by the bill for making contribution increases and continue to provide funding until the negative impact of the action was eliminated as determined by the actuary for the fund.

Actuarial limits. CSHB 2763 would establish that the rate of contributions to the pension fund could not be reduced or eliminated, a new monetary benefit payable by the pension fund could not be established, and the amount of a monetary benefit from the fund could not be increased, if, as a result of the particular action, the time required to amortize the unfunded actuarial liabilities of the pension fund would be increased to a period that exceeded 25 years, as determined by an actuarial valuation.

The assumptions and methods adopted by the board and used to prepare an actuarial valuation of the pension fund's assets and liabilities would

have to be consistent with generally accepted actuarial standards.

Any assumed rate of return adopted by the board of trustees would have to be reviewed as part of each actuarial valuation conducted on or after January 1, 2020.

The board would be required to adopt an assumed rate of return of 7 percent to be used in the preparation of any actuarial valuation conducted on or after September 1, 2019, and before January 1, 2020. This section would expire January 2, 2020.

Benefits modification. Subject to actuarial and contribution requirements specified in the bill, the board, with the approval of at least six members, could modify:

- provided benefits, including the multiplier by which a pension benefit amount was calculated;
- future membership qualifications;
- eligibility requirements for pensions or benefits, including the age at which a member would be eligible to retire; or
- members' and the municipality's contribution rates, except that the board could not modify the contribution rates set by the bill before January 1, 2025.

If on or after January 1, 2025, the fund's most recent actuarial valuation recommended an actuarially determined contribution rate that exceeded the aggregate contribution rates provided by the members and municipality, the board of trustees would be required to calculate the difference between the actuarially determined contribution rate and the aggregate contribution rates and, by rule, increase the contribution rates by 50 percent of the difference. The bill would provide when contribution rates could take effect.

The bill would raise from four to five the number of board members required to approve refunds to members who left service before qualifying for a pension.

Actions authorized under this section could not be made unless first

reviewed by a qualified actuary selected by at least six, rather than four, board members. A fellow of the Conference of Actuaries in Public Practice would no longer be a qualified actuary to review benefit modifications.

Composition of board. The bill would increase the number of trustees on the fund's board from seven to eight. The board would be composed of:

- the president of the municipality's police association or the president's designee, to serve during the president's term of office;
- two trustees designated by the city manager;
- two trustees designated by the city council, each to serve a staggered three-year term; and
- three trustees elected by the members of the fund, each to serve a staggered three-year term.

Qualifications of trustees. To be designated or elected a trustee of the fund, a person would be required to have:

- demonstrated financial, accounting, business, investment, budgeting, or actuarial experience;
- a bachelor's degree from an accredited institution of higher education; or
- been vetted to verify that the person was capable of performing the duties and responsibilities of a trustee and determined qualified for designation or election, as appropriate, to the board by the president of the municipality's police association or the president's designee and one of the trustees designated by the city manager.

A person would be presumed to have demonstrated financial, accounting, business, investment, budgeting, or actuarial experience if the person had at least five years of full-time employment experience working in a relevant field.

A person would not be required to reside in the municipality to be designated or elected a trustee.

Trustee training. A person who was appointed or elected to the board of trustees would be required to complete a training program. The program would have to provide the trustee with information regarding:

- the law governing the pension fund's operations;
- the programs, functions, rules, and budget of the fund;
- the scope of and limitations on the rulemaking authority of the board;
- the results of the most recent actuarial valuation of the fund; and
- the requirements of laws relating to open meetings, public information, administrative procedure, disclosing conflicts of interest; and
- other laws applicable to a trustee in performing the trustee's duties, including the board's fiduciary duty.

Board actions. As soon as practicable after its effective date, the bill would require the city manager and city council to designate trustees for the board of trustees, whose terms would begin November 1, 2019. It also would require the members of the pension fund to elect three trustees whose terms would begin November 1, 2019.

Notwithstanding the normal rules for trustee terms, the bill would require the city manager and the city council to designate one of the initial trustees to serve a two-year term and the existing board to designate one of the initial trustee positions elected by the members to serve a one-year term and another to serve a two-year term.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board's actuarial impact statement, the bill would result in the amortization period for the fund to fall from 42 to 30 years.

SUBJECT: Criminalizing certain fraudulent use of credit or debit card information

COMMITTEE: Pensions, Investments, and Financial Services — committee substitute recommended

VOTE: 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu

0 nays

WITNESSES: For — Jeff Headley, Houston Police Department; Adam Colby, Tyler Police Department (*Registered, but did not testify*: Rita Ostrander, Combined Law Enforcement Associations of Texas; Melodie Durst, Credit Union Coalition of Texas; Terrence Rhodes, Dallas Police Department; Ray Hunt, Houston Police Officers Union; Bill Elkin, Houston Police Retired Officers Association; Stephen Scurlock, Independent Bankers Association of Texas; Christopher Lutton, San Antonio Police Department; Jim Skinner, Sheriffs' Association of Texas; Celeste Embrey, Texas Bankers Association; Jeff Huffman, Texas Credit Union Association; Matt Burgin, Texas Food and Fuel Association; Mike Gomez, Texas Municipal Police Association)

Against — None

DIGEST: CSHB 2625 would make it an offense if a person, with the intent to harm or defraud another, obtained, possessed, transferred, or used:

- five or more counterfeit credit or debit cards;
- the numbers and expiration dates of five or more credit or debit cards without the consent of the account holder; or
- the data stored on the digital imprint of five or more credit or debit cards without the consent of the account holder.

The bill would establish a rebuttable presumption that if an individual possessed the numbers and expiration dates of five or more credit or debit cards or the data stored on the digital imprint of five or more credit or debit cards, the individual possessed each item without the consent of the

account holder. The presumption would not apply to a business or other commercial entity or a government agency that was engaged in a business activity or governmental function that did not violate a Texas penal law.

An offense would be:

- a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the number of items obtained, possessed, transferred, or used was five or more but less than 10;
- a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the number of items obtained, possessed, transferred, or used was 10 or more but less than 50; or
- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the number of items obtained, possessed, transferred, or used was 50 or more.

A second- or third-degree felony offense would be increased to the next-higher category of offense if it was committed against one or more elderly individuals as defined by the Penal Code.

The bill would authorize a court that ordered a defendant convicted of an offense under this section to make restitution to a victim of the offense to order the defendant to reimburse the victim for lost income or other expenses, other than attorney's fees, incurred as a result of the offense.

If conduct that constituted an offense under this section also constituted an offense under any other law, prosecution could occur under this section, the other law, or both.

The bill would take effect September 1, 2019, and would apply only to an offense committed after the effective date.

SUBJECT: Providing telemedicine to certain pediatric patients through Medicaid

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Frank, Hinojosa, Clardy, Klick, Meza, Miller, Noble

0 nays

2 absent — Deshotel, Rose

WITNESSES: For — Ray Tsai, Children's Health; Sarah Mills, Texas Association for Home Care and Hospice; Nora Belcher, Texas e-Health Alliance; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Stacy Wilson, Children's Hospital Association of Texas; Linda Townsend, CHRISTUS Health; Bill Kelly, City of Houston Mayor's Office; Chase Bearden, Coalition of Texans with Disabilities; Priscilla Camacho, Dallas Regional Chamber; Jill Ann Jarrell, Doctors for Change; Roberto Haddad, Doctors Hospital at Renaissance; Lindsay Lanagan, Legacy Community Health; Will Francis, National Association of Social Workers-Texas Chapter; Laurie Vangoose, Texas Association of Health Plans; Lee Johnson, Texas Council of Community Centers; Michelle Romero, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Jacqueline Portillo; Jordan Weinert)

Against — None

On — Stephanie Stephens, Health and Human Services Commission; (*Registered, but did not testify*: Erin McManus, Health and Human Services Commission)

BACKGROUND: Government Code sec. 531.02164 requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish by rule a statewide program that permits reimbursement under Medicaid for home telemonitoring services if HHSC determines that such a program would be cost-effective and feasible. The program must provide home telemonitoring services to people who are diagnosed with certain serious health conditions and exhibit certain risk factors, such as multiple

hospitalizations, a history of falls, or care access challenges.

Sec. 531.0216(f) requires HHSC to submit a biennial report on the effects of telemedicine medical services, telehealth services, and home monitoring services on Medicaid in the state to the lieutenant governor and House speaker.

Sec. 531.02176 prohibits HHSC from reimbursing providers under Medicaid for the provision of home telemonitoring services on or after September 1, 2019.

DIGEST:

CSHB 1063 would repeal the expiration of the Medicaid telemonitoring reimbursement program and make certain changes to the program.

The bill would require the Medicaid telemonitoring program to provide home telemonitoring services to pediatric patients who were diagnosed with end-stage solid organ disease, had received an organ transplant, or required mechanical ventilation. The executive commissioner of the Health and Human Services Commission (HHSC) would have to adopt rules for such a change by December 1, 2019.

HHSC would be required to include in its existing biennial reporting the cost savings to Medicaid of telemedicine, telehealth, and home telemonitoring services.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the agency would be required to request the waiver and would be permitted to delay implementation of the waiver or authorization until granted.

The bill would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, the bill would have a negative fiscal impact of $15.2 million in general revenue related funds through fiscal 2020-21.

SUBJECT: Expanding oversight over political subdivisions' contingent fee contracts

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Leach, Krause, Meyer, Smith, White

4 nays — Farrar, Y. Davis, Julie Johnson, Neave

WITNESSES: For — Carson Fisk, Andrews Myers PC; Jeffrey Brannen, Balfour Beatty Construction; TJ Rogers, Bartlett Cocke General Contractors; Lee Parsley, Texans for Lawsuit Reform; Luis Figueroa, Texas Society of Architects; Stephanie Cook; Mark McCaig; Timothy Mickunas; (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies Texas; Steven Albright, Association of General Contractors of Texas, Highway Heavy Branch; Perry Vaughn, Association of General Contractors, Rio Grande Valley Chapter; Corbin Van Arsdale, Association of General Contractors, Texas Building Branch; Joe Woods, American Property Casualty Insurance Association; Jon Fisher, Associated Builders and Contractors of Texas; James Grace Jr., CNA Insurance Companies; Samantha Omey, ExxonMobil; Annie Spilman, National Federation of Independent Business; Stephen Minick, Republic Services; Sandy Hoy, Texas Apartment Association; Ned Munoz, Texas Association of Builders; James Hines, Texas Association of Business; George Christian and Carol Sims, Texas Civil Justice League; Jennifer Fagan, Texas Construction Association; Jack Baxley, TEXO The Construction Association; Cary Roberts, U.S. Chamber Institute for Legal Reform; Cathy DeWitt, USAA; Tara Snowden, Zachry Corporation)

Against — Charles Reed, Dallas County Judge Clay Jenkins; John Odam, Harris County Attorney's Office; Jimmy Hannon, Highland Park ISD; Cyrus Reed, Lone Star Chapter Sierra Club; Barry Haenisch, Texas Association of Community Schools; Craig Eiland and Michael Gallagher, Texas Trial Lawyers Association; (*Registered, but did not testify*: Brie Franco, City of Austin; Luke Metzger, Environment Texas; James Hernandez, Harris County; Aimee Bertrand, Harris County Commissioners Court; Bill Kelly, City of Houston Mayor’s Office; Jim Short, National Cutting Horse Association; Robin Schneider, Texas

Campaign for the Environment; John Dahill, Texas Conference of Urban Counties; Shanna Igo, Texas Municipal League; Aryn James, Travis County Commissioners Court)

On — Joshua Godbey, Office of the Attorney General

BACKGROUND:

Government Code sec. 403.0305 prohibits certain public entities from entering into a contingency fee contract for legal services without review and approval by the comptroller. Public entities subject to this requirement include districts, cities, or other political subdivisions or agencies of the state that have the power to own and operate waste collection, transportation, treatment or disposal facilities or systems, and certain joint boards.

DIGEST:

CSHB 2826 would change the approval process for certain public subdivisions seeking to enter into contingent fee contracts for legal services by requiring that these contracts be reviewed and approved by the attorney general rather than by the comptroller.

Political subdivisions covered by the bill would include districts, authorities, counties, municipalities, other political subdivisions of the state, and local government corporations or other entities acting on behalf of a political subdivision in the planning and design of construction projects.

The bill would impose additional requirements on political subdivisions relating to the selection of outside attorneys for such contracts, acceptable indemnification provisions, the political subdivision's approval process for these contracts. Political subdivisions and attorneys hired under contingent fee contracts also would be subject to the requirements that currently apply to such contracts when entered into by state governmental bodies.

Selection. Political subdivisions would be required to select well qualified attorneys for these contracts on the basis of demonstrated competence, qualifications, and experience in the requested services and would have to attempt to negotiate a contract for a fair and reasonable price. Attorneys could not be selected for a contingent fee contract on the basis of

competitive bids.

Indemnification. A political subdivision could require attorneys under contingent fee contracts to indemnify or hold harmless the political subdivision from claims and liabilities resulting from the negligent acts or omissions of the attorney or law firm. However, attorneys could not be required to indemnify, hold harmless, or defend public subdivisions for claims or liabilities resulting from negligent acts or omissions of the subdivisions unless the contract was for such defense.

Approval by political subdivision. Before entering into a contingent fee contract, political subdivisions would have to provide public notice and hold an open meeting to consider and approve the contract. The public notice would state:

- the reasons for pursuing the matter for which the attorney would be retained and the desired outcome;
- the competence, qualifications, and experience demonstrated by the attorney;
- the nature of any relationship between the political subdivision and the attorney;
- the reasons the political subdivision was unable to pursue the matter by itself without retaining an attorney on a contingent fee basis;
- the reasons the legal services reasonably could not be obtained from an attorney under a hourly fee contract; and
- the reasons that entering into a contingent fee contract would be in the best interest of the political subdivision's residents.

The meeting to approve the contract would be called to consider the need for obtaining the legal services; the contract's terms; the competence, qualifications, and experience of the attorney; and the reasons the contract was in the best interest of the political subdivision's residents.

On approval, the governing body of the public subdivision would be required to state in writing that the political subdivision had found that:

- there was a substantial need for the legal services;
- the legal services could not be performed adequately by the political subdivision;
- the legal services reasonably could not be obtained from an attorney under an hourly fee contract because of the nature of the matter or because of lack of funds to pay the estimated fees under an hourly fee contract; and
- the relationship between the political subdivision and the attorney was not improper and would not appear improper to a reasonable person.

Public information. Contingent fee contracts approved by political subdivisions would be subject to the Public Information Act and could not be withheld from requestors under any exception from disclosure.

Review and approval by attorney general. Contingent fee contracts approved by political subdivisions would not become effective until the contracts received attorney general approval. Expedited review of the contract could be requested by the political subdivision.

Political subdivisions would be required to file the contracts with the attorney general along with:

- a description of the matter to be pursued by the political subdivision;
- a description of the interest that the state or any other governmental entity might have in the matter;
- a copy of the public notice described above and a statement regarding the method and date of providing notice;
- a copy of the governing body's statement upon approval of the contract; and
- any supporting documentation required by the attorney general.

The attorney general could refuse to approve a contract if a matter presented questions of law or fact in common with a matter the state had addressed or was pursuing and the political subdivision's pursuit of the matter would not promote a just and efficient resolution. The attorney

general also could refuse approval if a political subdivision failed to comply with all requirements relating to the political subdivision's approval of the contract or made findings in connection with such approval that were not supported by the documents provided to the attorney general.

A contract submitted to the attorney general would be considered to be approved unless the attorney general sent notification of refusal within 90 days of receiving the request for approval.

Exceptions. Political subdivisions would not have to obtain attorney general approval of contingent fee contracts for the collection of delinquent property taxes or the issuance of public securities. However, these contracts would be subject to the above requirements relating to the selection of attorneys, indemnification, political subdivision approval, and public information.

Void contract. A contract entered into in violation of this bill would be void as against public policy, and no fees could be paid under the contract.

The bill would take effect September 1, 2019, and would apply only to a contract entered into on or after that date.

SUPPORTERS SAY:

CSHB 2826 would promote public transparency and accountability by strengthening the approval process for political subdivisions seeking to enter into contingent fee contracts for legal services.

Political subdivisions enter into these contracts with very little public oversight. The bill would give the public the ability to monitor whether particular litigation was worthwhile, whether the best attorneys were hired at a fair rate, and whether any improper relationships existed between a political subdivisions and attorneys.

The attorney general would be better positioned to evaluate contingent fee contracts than the comptroller because the comptroller does not have the litigation expertise to review the increasing number of these contracts that are being submitted for approval. The attorney general already reviews

and approves contingent fee contracts for many state agencies.

The attorney general would be able to ensure not only that these contracts complied with state law but that actions taken by political subdivisions would not interfere with statewide efforts to address a particular matter, saving resources. The attorney general also would be able to let political subdivisions know what other political subdivisions were receiving in their contracts, which could save taxpayer money and help taxpayers get the best deal possible.

OPPONENTS SAY:

CSHB 2826 would limit local control by requiring attorney general approval before local governments entered into contingent fee contracts.

The bill would allow the attorney general to go beyond the current requirements for approval and allow the attorney general to refuse approval of contracts based on a subjective determination about whether pursuit of specific litigation was appropriate. The bill would not allow for an appeal of the attorney general's refusal to approve a contract and would provide no way of knowing the basis for this refusal.

Some political subdivisions cannot afford to pay hourly fee contracts and might not attempt to address local problems through contingent fee contracts because of the additional hurdles created by this bill.

SUBJECT: Allowing coursework as a qualification for certain plumbing licenses

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 9 ayes — T. King, Goldman, Geren, Guillen, Harless, Hernandez, K. King, Kuempel, Paddie

0 nays

1 absent — Herrero

1 present not voting — S. Thompson

WITNESSES: For — Alicia Dover, Plumbing-Heating-Cooling Contractors of Texas; Matthew Winn, Winn's Continuing Education; (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Daniel Womack, Dow; Traci Berry, Goodwill Central Texas; Lori Henning, Texas Association of Goodwills; Mike Meroney, Texas Association of Manufacturers; Thomas Rice)

Against — Stanley Biers, Texas Plumbing, AC, Mechanical Association; (*Registered, but did not testify*: Rene Lara, Texas AFL-CIO; Stephen Cox, Associated Plumbing-Heating-Cooling Contractors of Texas; Russell Shelton; Edward Sills)

BACKGROUND: Occupations Code sec. 1301.002(10) defines a "tradesman plumber-limited license holder" as a person who has completed 4,000 hours as a plumber's apprentice, has passed a required examination, constructs and installs plumbing for one- or two-family dwellings under the supervision of a responsible master plumber, and has fulfilled other requirements of the Texas State Board of Plumbing Examiners (TSBPE).

DIGEST: CSHB 4296 would amend the definition of a tradesman plumber-limited license holder to allow for a public high school student to have successfully completed a coherent sequence of courses in the plumbing trade offered through a career and technology education program in lieu of

completing 4,000 hours of apprenticeship.

The Texas State Board of Plumbing Examiners (TSBPE) would develop the courses, and the State Board of Education would approve them. The courses would have to include an appropriate number of hours of classroom instruction and a practical component. TSBPE could credit on-the-job training toward meeting the requirements under the practical component.

Only master plumbers, journeyman plumbers or plumbing inspectors could be instructors for such courses. Instructors could provide instruction in a full- or part-time capacity as an employee, contractor, or volunteer of a high school. Instructors could renew their plumbing licenses without paying a fee and by completing six hours of continuing professional education every three years, rather than every year.

The bill would establish that a student of any age enrolled in a high school would be eligible to take the courses without registering as a plumber's apprentice, paying any registration fee, or having to comply with any other Occupations Code regulations concerning plumbers. A student who completed the courses and passed a license examination would be required to be granted a license by TSBPE.

TSBPE could adopt rules necessary to implement this process, including rules to verify a student’s successful completion of the sequence of courses and rules to verify whether a person qualified for an exemption from the renewal fee or professional education requirements. These rules would be required to be adopted as soon as practicable after the effective date of the bill.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 4296 would prompt more young people to enter the plumbing profession, preparing them for a successful career in a field with good prospects for stability and earnings. It also would help reverse a trend in which career and technical education has been disappearing from high schools. The bill would address a shortage of skilled workers in the plumbing industry by reducing bureaucratic hurdles and financial burdens

that might otherwise impede high school students from becoming tradesman plumbers.

The Texas State Board of Plumbing Examiners, which would develop the courses under the bill, is capable of striking the right balance between work hours and classroom training for high school students.

OPPONENTS SAY:

CSHB 4296 could result in plumbers who were ill-prepared for the demands of their jobs. The current system requires 4,000 work hours to qualify for the tradesman plumber-limited license, but students who completed courses under the bill would not necessarily have to have any work experience in order to be licensed. While the bill's goal is a admirable one, the requirements of this program would be insufficient to ensure an adequate level of competence and safety.

SUBJECT: Removing and replacing obsolete references to the Texas Probate Code

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — William Pargaman, Real Estate, Probate & Trust Law Section, State Bar of Texas; (*Registered, but did not testify*: Craig Hopper, Lauren Hunt, and Melissa Willms, State Bar of Texas, Real Estate Probate & Trust Law Section; Guy Herman, Travis County Probate Court and Presiding Statutory Probate Judge of Texas)

Against — None

BACKGROUND: The Legislature enacted the Texas Estates Code through HB 2502 by Hartnett in 2009 and repealed the Texas Probate Code through HB 2759 by Hartnett in 2011.

In 2003, the Legislature enacted HB 2292 by Wohlgemuth, which abolished the Texas Department on Aging and transferred its powers, duties, functions, programs, and activities to the Department of Aging and Disability Services. In 2015, the Legislature enacted SB 200 by Nelson, which abolished the Department of Aging and Disability Services in 2017 and transferred its functions to the Health and Human Services Commissions.

DIGEST: HB 2780 would remove references to the obsolete Probate Code in various codes and replace them with appropriate equivalents in the Estates Code. The bill also would remove an obsolete reference to the Texas Department of Aging and replace it with the Health and Human Services Commission.

The bill would take effect September 1, 2019.

SUBJECT: Increasing civil statute of limitations related to certain child sex offenses

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Chris Kaiser, Texas Association Against Sexual Assault; Becky Leach (*Registered, but did not testify*: Aimee Arrambide, NARAL Pro-Choice Texas Foundation; Amelia Casas, Texas Criminal Justice Coalition; Steve Bresnen and Amy Bresnen, Texas Family Law Foundation; Joshua Houston, Texas Impact; Delma Limones; Susan Motley; Marci Purcell)

Against — None

BACKGROUND: Civil Practices and Remedies Code ch. 16 establishes statutes of limitation for bringing certain types of lawsuits. Under sec. 16.0045, suits for personal injury must be brought within 15 years from the date the action accrues if the injury arises from certain sex crimes committed against children. The crimes listed in the section include sexual assault of a child, aggravated sexual assault of a child, continuous sexual abuse of a young child, trafficking a child and causing the child to be involved in certain sex crimes, compelling prostitution of a child, and indecency with a child.

Concerns have been raised that child victims of sex crimes may take longer than the time frames in current law to come to terms with the crime and be able to speak about it and bring a civil lawsuit.

DIGEST: CSHB 3809 would allow suits for personal injury to be brought up to 30 years after the day the cause of action accrued if the injury arose from conduct involving the offenses against children listed in Civil Practices and Remedies Code sec. 16.0045 and the person brought the lawsuit solely against a person or persons who committed the conduct.

The bill would establish that the cause of action for bringing suits relating to child sex offenses and other sex offenses listed in Civil Practices and Remedies Code sec. 16.0045 accrued on the last day that the conduct violating the Penal Code occurred. This provision would apply to causes of action that accrued on or after the bill's effective date.

The bill would take effect September 1, 2019. The 30-year time frame for bringing suits would apply to causes of action that accrued on or after the effective date or to causes of action that accrued before the effective date, if the limitations period had not expired before the bill's effective date.

SUBJECT: Changing eligibility requirements for certain retired judge assignments

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Neave, R. Smith, White

0 nays

1 present not voting — Meyer

WITNESSES: For — (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court)

Against — None

BACKGROUND: Government Code sec 74.055 requires each presiding judge to maintain a list of retired and former judges who could be assigned to hold special or regular terms of court to try cases and dispose of accumulated business. In order to be eligible for inclusion in the list, judges must have served as an active member for at least 96 months in certain courts and meet other eligibility requirements.

Retired or former judges must certify to the presiding judge that they are willing to serve in order to be named on the list. In addition, a retired or former judge must certify under oath that the judge had never been publicly reprimanded or censured by the State Commission on Judicial Conduct and did not resign or retire from office after being notified that the judge was being investigated for an allegation or appearance of misconduct.

Some have suggested that eligibility requirements to be enrolled in the list of retired and former judges should be loosened to address the shortage of judges in rural areas.

DIGEST: HB 332 would revise the eligibility requirements for retired and former judges to be included in the list required by Government Code sec.

74.055.

Under the bill, a judge would be required to have served for at least four terms of office, instead of a minimum of 96 months, in order to be eligible to be named on the list.

A judge also would have to certify that the judge:

- had not been publicly reprimanded or censured in the preceding 10 years in relation to behavior on the bench or judicial duties;
- had not been convicted of a felony; and
- had not been charged with a crime alleging domestic violence or involving moral turpitude.

The bill would repeal a requirement that a judge certify that the judge did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of an investigation into an allegation of misconduct by the judge before the final disposition of that investigation, or if the judge did resign under those circumstances, that the judge was not publicly reprimanded or censured as a result of the investigation.

It also would repeal a provision stating that a former or retired judge would be ineligible to be named on the list if the judge was identified in a public statement issued by the State Commission on Judicial Conduct as having resigned or retired from office in lieu of discipline.

HB 332 would apply only to the appointment of a retired or former judge that occurred on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Eliminating certain requirements for handling inquest reports, evidence

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, Zedler, K. Bell, J. González, P. King, Moody, Murr, Pacheco

0 nays

1 absent — Hunter

WITNESSES: For — Lynn Holt, Justice of the Peace and Constable Association; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; Bobby Gutierrez, John Barton, Carlos Lopez, and Jama Pantel, Justice of the Peace and Constables Association of Texas)

Against — (*Registered, but did not testify*: Roy Hunter, Texas Police Chiefs Association)

BACKGROUND: Code of Criminal Procedure art. 49.17 establishes requirements for justices of the peace handling evidence related to an inquest. Justices are required to preserve all tangible evidence that they accumulate during the inquest that tends to show the real cause of death or identify the person who caused the death. The justice must:

- deposit the evidence with the appropriate law enforcement agency for storage in the agency's property room; or
- deliver the evidence to the district clerk subject to the order of the court.

Code of Criminal Procedure art. 49.15(d) requires justices of the peace to certify a copy of the inquest summary report and deliver it to the clerk of the district court. The clerk of the district court must retain the report subject to an order by the district court.

Some have suggested that current requirements for retaining and handling inquest evidence and summary information about inquests are outdated,

duplicative, and burdensome.

DIGEST:

CSHB 300 would eliminate requirements that justices of the peace deliver evidence relating to inquests to district clerks for safekeeping and would repeal the requirement for justices of the peace to deliver a certified copy of an inquest summary report to court clerks and for courts to retain the copy. Clerks would be authorized to destroy in accordance with the district court's records retention schedule any certified copies of inquest summary reports.

As soon as practicable after the bill's effective date, district clerks who have inquest evidence would be required to transfer it to an appropriate law enforcement agency.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Allowing Brazos County to impose a vehicle fee to fund an RMA

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Canales, Y. Davis, Goldman, Krause, Leman, Ortega, Raney, Thierry, E. Thompson

0 nays

4 absent — Landgraf, Bernal, Hefner, Martinez

WITNESSES: For — John Nichols, BCS Chamber of Commerce; Steve Aldrich and Nancy Berry, Brazos County; Karl Mooney, City of College Station; (*Registered, but did not testify*: Karen Rove, AGC of Texas Highway Heavy; Jennifer Rodriguez, Brazos Transit District; Steve Bresnen, El Paso County)

Against — Don Dixon; (*Registered, but did not testify*: Terri Hall, Texas TURF and Texans for Tollfree Highways; CJ Grisham; Stephanie Ingersoll)

On — Brian Barth, Texas Department of Transportation; (*Registered, but did not testify*: Jeremiah Kuntz, Texas Department of Motor Vehicles)

BACKGROUND: Transportation Code sec. 502.402 allows the commissioners court of certain counties, including counties with populations greater than 1.5 million that are coterminous with regional mobility authorities, to impose a fee on vehicles registered in the county. The fee revenue collected must be sent to a regional mobility authority to fund long-term transportation projects in the county.

DIGEST: HB 642 would amend Transportation Code sec. 502.402 to allow the commissioners court of a county that had a population of more than 190,000, rather than 1.5 million, and was coterminous with a regional mobility authority to impose an additional fee for a vehicle registered in the county.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 642 would allow Brazos County to address the area's transportation and infrastructure needs with vehicle registration fees. Currently, Brazos County has an application pending with the Texas Department of Transportation (TxDOT) to establish a regional mobility authority, and this legislation adjusting certain population limits in statute would provide funding for that regional mobility authority.

The Bryan-College Station area faces significant traffic issues, and a regional mobility authority would allow Brazos County to secure a source of local funding to address these issues, rather than having to rely on TxDOT.

OPPONENTS SAY:

HB 642 would create an unnecessary fee and bureaucracy, as TxDOT's resources should be adequate to address these issues. Vehicle owners in Brazos County should not be burdened with additional fees to help TxDOT build roads that the department should be building.

SUBJECT: Requiring uniform guidance for judges in CPS and juvenile cases

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Allison Franklin, Texas Criminal Justice Coalition; Jennifer Lucy, Texprotects; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Tiffany Roper, Department of Family and Protective Services)

BACKGROUND: Some have noted that there can be a lack of uniformity in the way judges handle juvenile and child protective services cases across the state and that judges could benefit from training or experience in responding to issues that impact children.

DIGEST: CSHB 2737 would require the Texas Supreme Court to provide annual guidance to judges who presided over juvenile or child protective services cases to establish greater uniformity across the state for certain issues. The issues would include the placement of children with severe mental health issues; changes in placement; final termination of parental rights; the release of children detained in juvenile detention facilities; certification of juveniles to stand trial as adults; and commitment of children to the Texas Juvenile Justice Department.

The court would adopt any necessary rules to execute the bill's provisions.

The bill would take effect September 1, 2019.

SUBJECT: Studying effectiveness of the assessment used to make parole decisions

COMMITTEE: Corrections — committee substitute recommended

VOTE: 8 ayes — White, Bailes, Bowers, Dean, Morales, Neave, Sherman, Stephenson

1 nay — Allen

WITNESSES: For — Andy Kahan, Crime Stoppers of Houston; (*Registered, but did not testify*: Michael Barba, Texas Catholic Conference of Bishops; Rachelle Reyna)

Against — None

On —Timothy McDonnell and David Gutierrez, Texas Board of Pardons and Paroles; Brenda Gaye Webb

BACKGROUND: Government Code sec. 508.144 requires the Board of Pardons and Paroles (BPP) to develop and implement parole guidelines as the basic criteria on which parole decisions are made. The guidelines must be based on the seriousness of the offense and the likelihood of a favorable parole outcome, ensure that they require consideration of an inmate's progress in any programs, and establish and maintain a range of recommended parole approval rates for each category or score within the guidelines.

BPP must annually review and discuss the guidelines and range of recommended parole approval rates. The board must consider how the guidelines and range of recommended approval rates serve the needs of decision-making and the extent to which the guidelines and range of recommended approval rates reflect parole decisions and predict successful outcomes.

Based on the review, the board can update the guidelines by including new risk factors, change the values of offense severity or risk factor scores, or modify the range of recommended parole approval rates, if approval rates differ significantly from the range of recommended

approval rates.

DIGEST:

CSHB 788 would require the Board of Pardons and Paroles (BPP) to study the effectiveness of the assessment components of the parole guidelines used by the board and parole panels to determine which inmates should be released on parole.

To conduct the study, BPP would have to obtain certain information on inmates considered and released on parole from September 1, 2013, to August 31, 2016. The information would have to be obtained from the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and any other criminal justice agency with relevant information on the recidivism of those inmates. The study could use information for a select group of inmates based on an acceptable research methodology.

To evaluate the effectiveness of the assessments, the board would have to compare and analyze the recidivism rates and parole guideline score of the inmates in the study. The board would have to determine for each category or score within the parole guidelines the number of inmates released on parole who were convicted of a misdemeanor or felony following release on parole and the number who had parole revoked for a reason other than a new conviction.

By January 1, 2021, the board would have to submit a report on the study to the governor, the lieutenant governor, and members of the Legislature. The report would have to include any recommendations BPP considered necessary to improve the parole decision-making process, including any updates to the parole guidelines or modifications to the range of recommended parole approval rates.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019. The requirement for the report would expire August 31, 2021.

SUPPORTERS SAY:

CSHB 788 would allow the Board of Pardons and Paroles to review the tools it uses to assess and evaluate the suitability of inmates for parole, which could help avoid tragedies. Unfortunately, there are several cases of

parolees who went on to commit violent crimes, including murder, after being released on parole. In fiscal 2018, almost 6,000 parolees were convicted of new offenses while on parole but did not have their parole revoked. These examples illustrate the shortcomings in the current assessment and the need for a focused study on it. While BPP is required to discuss the guidelines annually, the bill would focus study on the assessment tool and on providing recommendations to lawmakers to improve the existing approach.

OPPONENTS SAY:

CSHB 788 is unnecessary because BPP has an established process to review its parole guidelines, and this process has worked well. Any needed changes could be identified through the current process.

OTHER OPPONENTS SAY:

The study should take a broader approach and consider individuals sent to intermediate sanction facilities and why some individuals who might be suitable for parole were denied.

SUBJECT: Requiring TDCJ to provide documentation to certain inmates upon release

COMMITTEE: Corrections — committee substitute recommended

VOTE: 9 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Neave, Sherman, Stephenson

0 nays

WITNESSES: For — Lauren Johnson, ACLU of Texas; Mia Hutchens, Texas Association of Business; Allison Franklin and Reginald Smith, Texas Criminal Justice Coalition; Kaycie Alexander, Texas Public Policy Foundation; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Pamela Brubaker, Austin Justice Coalition; Jeff Heckler, Faith Presbyterian Church of Austin; Traci Berry, Goodwill Central Texas; Cate Graziani, Grassroots Leadership and Texas Advocates for Justice; Kathleen Mitchell, Just Liberty; Jamaal Smith, City of Houston Mayor's Office; Julia Egler, National Alliance on Mental Illness-Texas; John McCord, National Federation of Independent Business; Kaden Norton, Prison Fellowship Ministries; Russell Schaffner, Tarrant County; Sue Gabriel, Texas Advocates for Justice; Rene Lara, Texas AFL-CIO; Penny Rayfield, Texas Association of Business; Lori Henning, Texas Association of Goodwills; Mike Meroney, Texas Association of Manufacturers; Kathryn Freeman, Texas Baptist Christian Life Commission; Michael Barba, Texas Catholic Conference of Bishops; Cheri Siegelin, Texas Correctional Employees-Huntsville; Emily Gerrick, Texas Fair Defense Project; Charlie Malouff, Texas Inmate Families Association; Ryan Skrobarczyk, Texas Nursery and Landscape Association; Amite Duncan, Texas Prisons Air Conditioning Advocates; Jason Vaughn, Texas Young Republicans; Alexis Tatum, Travis County Commissioners Court; Darwin Hamilton; Carl F. Hunter II; Maria Person; Laurie Pherigo; Sandra Wolff)

Against — None

On — April Zamora, Texas Department of Criminal Justice; (*Registered, but did not testify*: Karen Keith)

BACKGROUND:

Government Code sec. 497.094 requires the Texas Department of Criminal Justice (TDCJ) to implement job training programs for inmates and to establish permanent records for each inmate, defendant, or released individual detailing the types of job training provided. The department is required to provide a copy of the record to each inmate, defendant, or released individual upon release.

Government Code sec. 497.095 requires TDCJ to establish permanent records for each inmate in a facility operated by or under contract with the department that participates in a department work program. These records must describe the types of work performed by the inmate, defendant, or released individual and contain a performance evaluation and work attendance record. TDCJ is required to provide a copy of these records to an inmate, defendant, or released individual upon release.

Government Code sec. 501.0165 requires TDCJ to determine if an inmate has a valid drivers license or a valid personal identification certificate prior to release. If an inmate does not have one of these documents, the department must submit a request to the Department of Public Safety on behalf of the inmate for the applicable document.

Interested parties have suggested that the lack of basic identifying information is a significant barrier to inmates obtaining employment upon release and argue that assisting in providing this documentation could help former inmates gain employment, support the Texas economy, and reduce recidivism rates.

DIGEST:

CSHB 918 would require TDCJ to provide an inmate discharged or released on parole, mandatory supervision, or conditional pardon with relevant documentation to assist the inmate in obtaining post-release employment, including a copy of the inmate's job training and work records.

For inmates who had completed a prerelease program required by a parole panel, TDCJ would have to provide a resume that included any trade learned by the inmate and the level of proficiency at that trade, and documentation that the inmate had completed a practice job interview.

An inmate could receive this assistance in obtaining employment if the inmate's intended residence was in Texas and the inmate was deemed able to work by the department.

TDCJ also would have to determine if the inmate had a certified copy of the inmate's birth certificate and a copy of the inmate's Social Security card. If the inmate did not have one of these documents, TDCJ would be required to submit a request to the appropriate entity on behalf of the inmate for the applicable document. This request would have to be submitted as soon as practicable to enable TDCJ to provide the inmate with the applicable document upon discharge or release.

The provisions concerning personal identification documents would not apply to an inmate who was not legally present in the United States or was not a resident of the state before being placed in the custody of TDCJ.

The bill would take effect January 1, 2020.

SUBJECT: Requiring a biennial report on green stormwater infrastructure

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Larson, Metcalf, Farrar, Harris, T. King, Lang, Nevárez, Oliverson, Ramos

0 nays

2 absent — Dominguez, Price

WITNESSES: For — Luke Metzger, Environment Texas; Karen Bishop, San Antonio River Authority; (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Daniel Womack, Dow; Sandra Haverlah, Environmental Defense Fund; Ender Reed, Harris County Commissioner Court; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Chris Mullins, Save Our Springs Alliance; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Julia Parenteau, Texas Realtors; Chloe Lieberknecht, The Nature Conservancy; Alexis Tatum, Travis County Commissioners Court; David Matiella, U.S. Green Building Council; Shaylan Rounds, U.S. Green Building Council; Ty Embrey, Water Environment Association of Texas; Kenneth Flippin)

Against — None

BACKGROUND: It has been suggested that a comprehensive study on green stormwater infrastructure could help improve stormwater infrastructure in Texas and help prevent runoff pollution during flooding events.

DIGEST: HB 1059 would require the Texas Commission on Environmental Quality (TCEQ) to appoint a 10-member group each fiscal biennium to prepare a report on the use of green stormwater infrastructure and low impact development in the state.

The group would consist of members representing counties, municipalities, special districts with land development authority or that provide water or wastewater services, academic university programs

related to land development, businesses engaged in real estate development, civil engineers, landscape architects, environmental groups, professional organizations focused on water conservation, and vendors and providers of green stormwater infrastructure and low impact development systems or practices.

TCEQ would solicit nominations for group members from these entities, and the commission could not appoint a person to serve as a group member representing a type of entity unless the person was nominated by a representative of that entity type.

Reports prepared by the group would include a list of each county, municipality, and special district with land development authority that allowed the use of green stormwater infrastructure and low impact development in land development projects. Reports also would have to include:

- estimates of the number of private and public projects and sites that used green stormwater infrastructure and low impact development;
- estimates of the amount of stormwater managed by these features;
- estimates of the amount of money invested in the features;
- a monetized assessment of the social, economic, and environmental benefits realized by the use of these features in the state;
- an assessment of typical impediments in local development codes and state law and policies to the use of these features; and
- recommendations to encourage the increased use and deployment of green stormwater infrastructure and low impact development in the state.

TCEQ would have to publicly solicit information to support the preparation of the report and cooperate with the group in providing information or access to information.

The group would conduct at least one meeting to receive input on the preparation of the report, prepare and publish a draft report and solicit comments on the draft, and prepare a response-to-comments document and finalize the report.

Reports would have to be submitted to each member of the commission, the governor, the lieutenant governor, the House speaker, and each member of the Legislature by January 1 of the second year of each state fiscal biennium.

The first report would be due by January 1, 2021, and would have to include only information described in the bill that TCEQ required to be included.

The bill would take effect September 1, 2019.

SUBJECT: Incorporating technology applications courses in certain curricula

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — Dana Harris, Austin Chamber of Commerce; Alexis Harrigan, Code.org; Carol Fletcher, Pflugerville ISD; John Kelso; (*Registered, but did not testify*: Jennifer Rodriguez, Apple, Inc.; Jon Fisher, Associated Builders and Contractors of Texas; Robin Painovich, Career and Technical Association of Texas; Dana Chiodo, CompTIA; Priscilla Camacho, Dallas Regional Chamber; Deborah Caldwell, North East ISD; Jay Barksdale, Plano ISD; Allison Brooks, Project Lead the Way; Caroline Joiner, Rackspace; Seth Rau, San Antonio ISD; David Edmonson, TechNet; Mike Meroney, Texas Association of Manufacturers; Jennifer Bergland, Texas Computer Education Association; Shannon Noble, Texas Industrial Vocational Association; Chris Frandsen, Texas League Of Women Voters; Kyle Ward, Texas PTA; Dee Carney, Texas School Alliance; Christy Rome, Texas School Coalition; Lisa Dawn-Fisher, Texas State Teachers Association; Jarod Love, The College Board)

Against — None

On — (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: With increased need for skilled technology workers, some have noted the need to incorporate technology applications courses into the career and technical education course curriculum.

DIGEST: HB 963 would require the State Board of Education to review the essential knowledge and skills of the career and technology and technology applications curriculums. The board would have to amend its

rules to consolidate the technology applications courses for grades 9 through 12 with the career and technical education courses and eliminate duplicative courses while ensuring certifications were aligned with the rigor of each individual course. The review and rules amendments would have to be completed by March 1, 2020.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $7 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Prohibiting denial of payment for certain preauthorized health services

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Lucio, Oliverson, S. Davis, Julie Johnson, Lambert, C. Turner, Vo

0 nays

2 absent — G. Bonnen, Paul

WITNESSES: For — Krista Armstrong, Advanced Orthopaedics and Sports Medicine; (*Registered, but did not testify*: Tucker Frazier, Kyle Frazier Consulting; Daniel Chepkauskas and Kyle Frazier, Patient Choice Coalition of Texas; Bradford Shields, Tesas Federation of Drug Stores, Texas Society of Health-System Pharmacists; Courtney Hoffman, Texas Association for Behavior Analysis PPG; Clayton Stewart, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; Bonnie Bruce, Texas Society of Anesthesiologists)

Against — None

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 1217 governs the standard request form required by the Texas Department of Insurance for prior authorization of health care services.

Observers suggest that some health insurance providers may give prior authorization for treatment, then deny payment after a patient receives care, leaving patients responsible for all or part of the treatment cost.

DIGEST: CSHB 1273 would prohibit a health benefit plan issuer from denying or reducing payment to health providers for previously authorized health care services based on medical necessity or appropriateness of care unless the health provider materially misrepresented the proposed services or

substantially failed to perform the proposed services.

The bill would not apply to a denial, recoupment, or suspension of or reduction in a payment to physicians or health providers made by a managed care organization under the direction of the Health and Human Services Commission's office of the inspector general. If fraud and abuse in Medicaid or the Children's Health Insurance Program were detected, the bill also would not apply to a recovery by a managed care organization

The bill would not limit a physician or health provider's liability in a civil action alleging Medicaid fraud or for a violation of state or federal law governing Medicaid or benefits under the Children's Health Insurance Program.

The bill would take effect September 1, 2019.

SUBJECT: Streamlining purchasing and contracting by governmental entities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Phelan, Guerra, Harless, Holland, Hunter, P. King, Raymond, Springer

0 nays

5 absent — Hernandez, Deshotel, Parker, E. Rodriguez, Smithee

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Bobby Pounds and Robert Wood, Comptroller of Public Accounts)

BACKGROUND: Government Code sec. 2155.510 allows the comptroller to collect a rebate from a vendor on a multiple award contract schedule, defined as a contract for an indefinite amount of one or more similar goods or services. If a purchase resulting in a rebate is made in whole or in part with federal funds, the comptroller ensures that portion of the rebate is reported to the purchasing agency for reconciliation purposes with the appropriate federal agency.

Sec. 2171.055 governs contracts for travel services and requires executive branch agencies to participate in the contracts.

Sec. 2262.004 establishes that before a state agency may award a major procurement contract that exceeds $25,000, the agency's purchasing personnel must sign a nepotism disclosure.

Some have suggested streamlining certain powers and duties in the state procurement process, including revising rebate notifications in the Texas Multiple Award Schedule, using state travel contracts, and addressing duplicative attorney disclosures.

DIGEST:

HB 3852 would require the comptroller to notify a state agency purchasing a good or service through a multiple award contract of the percentage used to calculate the rebate that the comptroller could collect from the vendor.

The bill would remove the requirement under Government Code sec. 2155.510 related to purchases made in whole or in part with federal funds that resulted in a rebate.

An officer or employee of a local workforce development board or of a governmental entity that was party to a compact, interagency agreement, or cooperative purchasing agreement engaged in official business could participate in the comptroller's contract for travel services. The comptroller could charge a fee that did not exceed the costs incurred in providing services and would have to periodically review and adjust the fees to ensure cost recovery.

HB 3852 would amend the nepotism disclosure under Government Code sec. 2262.004 to exempt an attorney licensed to practice in Texas who had not been disciplined by the State Bar of Texas for a violation of the Texas Disciplinary Rules of Professional Conduct.

The bill would take effect September 1, 2019.

SUBJECT: Limiting liability of health care volunteers and institutions in disasters

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Cameron Duncan, Texas Hospital Association; George Santos, Texas Medical Association, Harris County Medical Society, Texas Hospital Association; (*Registered, but did not testify*: Joel Romo, Association of Texas EMS Professionals; Linda Townsend, CHRISTUS Health; Donna Warndof, Harris County Commissioners Court; Michelle Apodaca, Tenet; Lee Parsley, Texans for Lawsuit Reform; Billy Phenix, Texas Alliance for Patient Access; Jess Calvert, Texas Dental Association; Casey Haney, Texas Nurse Practitioners; Andrew Cates, Texas Nurses Association; Bruce Scott, Texas Society of Oral and Maxillofacial Surgeons; Nora Del Bosque)

Against — None

BACKGROUND: Civil Practice and Remedies Code sec. 74.001(11) defines a "health care institution" as an ambulatory surgical center, an assisted living facility, an emergency medical services provider, a health services district, a home and community support services agency, a hospice, a hospital, a hospital system, an intermediate care facility for individuals with intellectual disabilities, a nursing home, or an end-stage renal disease facility.

Sec. 84.003(5) defines a "volunteer health care provider" as an individual who is a licensed health care professional who voluntarily provides health care services without compensation or the expectation of compensation.

Some have noted that there is ambiguity regarding the liability of volunteer health care providers and suggest that this could discourage these providers from volunteering during disasters.

DIGEST:

CSHB 1353 would make volunteer health care providers immune from civil liability for an act or omission that occurred while giving care, assistance, or advice in relation to a natural disaster or man-made event that threatened individuals, property, or the environment and that was within the scope of the provider's practice under Texas law. Immunity from civil liability would not apply to cases of reckless conduct or intentional, willful, or wanton misconduct.

Health care institutions also would be immune from civil liability for an act or omission made by a volunteer health care provider acting at the institution's facility or under the institution's direction if:

- the volunteer provider was immune from civil liability; and
- the institution did not have an expectation of compensation from or on behalf of the recipient of assistance for expenses incurred in connection with the assistance.

The immunity provided under the bill would be in addition to any other immunity or limitations of liability provided under law. It would not apply to a cause of action that took place prior to the effective date of the bill.

The bill would take effect September 1, 2019.

SUBJECT: Implementing a study to consider a scoring system for CPS caseloads

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Noble

0 nays

2 absent — Miller, Rose

WITNESSES: For — (*Registered, but did not testify*: Brianne Gigout, Catholic Charities; Marilyn Hartman and Tesia Krzeminski, National Alliance on Mental Illness Austin; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Tyler Sheldon, Texas State Employees Union; Anita Orr, TSEU; Vanessa Brown)

Against — None

On — Lisa Kanne, Department of Family and Protective Services; (*Registered, but did not testify*: Kristene Blackstone and Liz Kromrei, Department of Family and Protective Services)

BACKGROUND: Interested parties note that the varying complexity of individual Child Protective Services cases makes it difficult for the Department of Family and Protective Services to estimate a reasonable caseload for caseworkers.

DIGEST: CSHB 1362 would require the Department of Family and Protective Services (DFPS) to study the development and implementation of a scoring system to ensure equity in the distribution of cases among Child Protective Services caseworkers.

As part of the study, DFPS would be required to consider the procedures for assigning cases, methods for managing caseloads, and the factors considered in assigning scores to caseloads and assigning cases to caseworkers. DFPS also would have to determine the average caseload for caseworkers in each department region and the cost to implement a

scoring system. DFPS also would have to ensure that any scoring system developed by the department had the capability to produce monthly reports with information on each department region.

DFPS would have to report the results of the study and any recommendations to the governor, lieutenant governor, House speaker, and chairs of the relevant legislative committees by September 1, 2020.

The bill's provisions would expire September 1, 2021.

The bill would take effect September 1, 2019.

SUBJECT: Allowing complaints to be made against nonprofit health organizations

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Ortega, Price, Sheffield, Zedler

0 nays

2 absent — Coleman, Lucio

WITNESSES: For — Tim Bittenbinder, Texas Medical Association, Baylor Scott and White Health; (*Registered, but did not testify*: Tom Forbes, Texas Academy of Family Physicians; Dan Finch, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association)

Against — None

On — Steve Wohleb, Texas Hospital Association

BACKGROUND: Occupations Code sec. 162.001 requires the Texas Medical Board (TMB) to certify nonprofit health care organizations that meet certain standards. Sec. 162.003 allows TMB to refuse to certify a nonprofit health organization, revoke a certification made to that organization, or impose an administrative penalty if the organization was found to have been established, organized, or operated in violation of or with the intent to violate statute regulating nonprofit health organizations.

DIGEST: CSHB 1532 would require the Texas Medical Board (TMB) to accept and process complaints made against nonprofit health organizations. The bill also would require these organizations to develop anti-retaliation policies for physicians and submit biennial reports to TMB.

Complaints against nonprofit health organizations. The bill would require TMB to accept and process complaints against nonprofit health organizations for alleged violations applicable to a health organization in the same manner as complaints made against health professionals. TMB

would be required to:

- maintain a system to promptly and efficiently act on complaints filed with the board;
- notify the health organization that was the subject of a complaint that a complaint had been filed, disclose the nature of the complaint, and provide the organization an opportunity to respond to the complaint;
- ensure that a complaint was not dismissed without appropriate consideration; and
- establish methods by which physicians employed by a health organization were notified of the contact information for TMB for the purpose of directing complaints to the board.

TMB could dispose of a complaint or resolve the investigation of a complaint to the extent the board determined existing provisions relating to complaints made against health professionals could be made applicable to nonprofit health organizations.

These provisions would neither require an individual to file a complaint nor prohibit an individual from filing a complaint against a nonprofit health organization relating to the services provided or policies of the organization or an alleged violation by the organization. Each complaint and piece of investigative information possessed by the board would be privileged and confidential.

Anti-retaliation policy. Nonprofit health organizations would be required to develop, implement, and comply with an anti-retaliation policy for physicians under which health organizations could not terminate, demote, retaliate against, discipline, discriminate against, or otherwise penalize a physician for the following actions made in good faith:

- filing a complaint;
- cooperating with an investigation or TMB proceeding relating to a complaint; or
- communicating to a patient what the physician reasonably believed to be the physician's best, independent medical judgment.

TMB could take any action authorized by statute or applicable board rule after a determination was made that a nonprofit health organization had failed to develop, implement, or comply with an anti-retaliation policy. Nonprofit health organizations would have to develop anti-retaliation policies by December 31, 2019.

Violations. The bill would add violations of the bill's provisions to the list of actions in response to which TMB could refuse to certify a nonprofit health organization, revoke a certification made to that organization, or impose an administrative penalty.

Biennial report. Each nonprofit health organization would have to file a biennial report with TMB that must include statements signed and verified by the president or CEO of the organization that:

- provided the name and address of the organization, each member of the organization, each member of the board of directors, and each officer of the organization;
- disclosed any change in the composition of the board of directors since the last report;
- indicated whether the organization's certificate of formation or bylaws were amended since the last report;
- included a concise explanation of amendments and stated whether these amendments were approved by the board of directors;
- included a copy of the organization's current certificate of formation and bylaws, if these documents were not currently on file with TMB; and
- indicated that the organization was complying with requirements for continued certification under statute and TMB rules.

The report also would have to include a statement from each current director of the health organization that was signed and verified by the director and that:

- stated that the director was licensed by TMB to practice medicine, was actively engaged in the practice of medicine, and had no

restrictions on the director's license;

- stated that the director would exercise independent judgment in all matters, would exercise best efforts to ensure the organization's compliance with statute and TMB rules, and would immediately report to TMB any action or event the director believed in good faith violated statute or board rules;
- identified and concisely explained the nature of each financial relationship the director had with a member, another director, or supplier of the health organization and their affiliates; and
- stated that the director had disclosed all of these relationships.

The report would be submitted with a fee prescribed by board rule. The statements regarding the composition of a health organization would have to be published on TMB's website by January 1 of each year. Information provided in all other statements in the report would be public information subject to disclosure under the Texas Public Information Act.

The board would be authorized to adopt necessary rules to implement the provisions of the section requiring biennial reports.

Effective date. The bill would take effect September 1, 2019, except for the provisions relating to actions taken by TMB relating to a nonprofit health organization's noncompliance with an anti-retaliation policy, which would take effect January 1, 2020.

The provisions concerning violations and the processing of complaints against nonprofit health organizations would apply only to a violation that occurred on or after the effective date of the bill.

SUBJECT: Requiring health plans to establish preauthorization renewal process

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Lucio, Oliverson, S. Davis, Julie Johnson, Lambert, C. Turner, Vo

0 nays

2 absent — G. Bonnen, Paul

WITNESSES: For — Greg Hansch, National Alliance on Mental Illness-Texas; Phil Shackelford; (*Registered, but did not testify*: Marina Hench, American Cancer Society Cancer Action Network; Stacey Pogue, Center for Public Policy Priorities; James Mathis, Houston Methodist Hospital; Marilyn Hartman, National Alliance on Mental Illness-Austin; Will Francis, National Association of Social Workers-Texas; Simone Nichols-Segers, National MS Society; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; Bonnie Bruce, Texas Society of Anesthesiologists; John Henderson, Texas Organization of Rural and Community Hospitals)

Against — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office)

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

DIGEST: CSHB 3041 would require a health benefit plan issuer that required preauthorization as a condition of payment to provide a preauthorization renewal process. This process would have to allow a renewal of an existing preauthorization to be requested at least 60 days before the date the preauthorization expired.

If a health plan issuer received a preauthorization renewal request before the existing preauthorization expired, the issuer would have to, if

practicable, review the request and determine whether the service was preauthorized before the existing preauthorization expired.

The bill would apply to certain health benefit plans, including:

- a health maintenance organization;
- a small employer health plan subject to the Health Insurance Portability and Availability Act;
- a consumer choice of benefits plan;
- a basic coverage plan under the Texas Employees Group Benefits Act;
- a basic plan under the Texas Public School Retired Employees Group Benefits Act;
- a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act;
- a basic coverage plan under the Uniform Insurance Benefits Act for employees of the University of Texas and Texas A&M systems;
- group health coverage made available by a school district;
- group health benefits provided to county employees; and
- health and accident coverage under the Texas Political Subdivision Employees Uniform Group Benefits Act.

The bill also would apply to the state Medicaid program, including managed care programs, and the state child health plan program.

The bill would take effect September 1, 2019, and would apply to a health benefit plan issued or renewed on or after January 1, 2020.

SUPPORTERS SAY:

CSHB 3041 would help address unnecessary gaps in patient care by establishing a renewal process by which entities could request to renew a preauthorization before it expired. The current preauthorization process is burdensome and can lead to negative health outcomes for those who are unable to meet the process's time constraints, resulting in missed treatment for ongoing medical conditions.

Concerns about the bill's applicability to health coverage offered by counties and political subdivisions could be addressed in a floor

amendment.

OPPONENTS SAY:

CSHB 3041 would inappropriately apply the bill's preauthorization requirements to certain health coverage plans offered by counties and political subdivisions to their employees. These plans should not be subjected to Texas Department of Insurance requirements because doing so could undermine the independence of local governments.

NOTES:

The bill author plans to offer a floor amendment that would exempt certain county employee group health benefits and health coverage under the Texas Political Subdivision Uniform Group Benefits Program, as well as workers' compensation insurance coverage, from the bill's requirements. The floor amendment also would revise the number of days in which a preauthorization renewal could be requested from 60 to 45 days before the existing preauthorization expired.

SUBJECT: Adding electric motorcycles to the Texas Emissions Reduction Program

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 7 ayes — Lozano, Kacal, Kuempel, Morrison, Reynolds, J. Turner, Zwiener

0 nays

2 absent — E. Thompson, Blanco

WITNESSES: For — Preston Douglass, Corpus Christi Harley-Davidson; (*Registered, but did not testify*: Scott Hutchinson, Association of Electric Companies of Texas; Gwendalyn Gebghardt, Coastal Wire Company; Jay Propes, Harley Davidson Motor Company; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly City of Houston, Mayor's Office; Adrian Shelley, Public Citizen; Tom Spilman)

Against — (*Registered, but did not testify*: Jason Vaughn, Texas Young Republicans)

On — (*Registered, but did not testify*: Donna Huff, Texas Commission on Environmental Quality)

BACKGROUND: Health and Safety Code ch. 386 establishes the Texas Emissions Reduction Plan, which provides financial incentives for certain programs that reduce emissions, including a program for grants for certain low-emission vehicles.

DIGEST: HB 1649 would add motorcycles to the list of new light-duty motor vehicles powered by electric drives that qualified for a $2,500 incentive.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Allowing designated municipal employees to request vehicle tows

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 10 ayes — T. King, Goldman, Geren, Guillen, Harless, Hernandez, K. King, Kuempel, Paddie, S. Thompson

0 nays

1 absent — Herrero

WITNESSES: For — Maria Irshad, City of Houston Administration and Regulatory Affairs Department; Jeanette Rash, Texas Towing and Storage Association; (*Registered, but did not testify*: Brie Franco, City of Austin; Jamaal Smith, City of Houston Mayor's Office; Christine Wright, City of San Antonio; JJ Rocha, Texas Municipal League)

Against — None

On — (*Registered, but did not testify*: Carol Anderson)

BACKGROUND: Occupations Code sec. 2308.354 prohibits a parking facility owner or towing company from removing a vehicle from a public roadway except as permitted under statute or at the direction of a peace officer or the owner or operator of the vehicle. It also allows cities with populations of 1.9 million or more to authorize a designated employee to request the removal of a vehicle parked illegally in a tow-away zone.

It has been suggested that the current requirement for peace officers to request vehicles to be towed may not be the best use of officers' time and may sometimes increase the time needed to remove vehicles from streets.

DIGEST: HB 1568 would allow a municipality to authorize a designated employee to request the removal of a vehicle that violated a municipal ordinance regulating the operation of vehicles for hire. The bill also would authorize a towing company to remove and store a vehicle upon receiving such a

request from the designated employee, without authorization by a peace officer.

A municipality also could authorize a designated employee to request the removal and storage of a vehicle that was parked illegally on a street or that was parked legally but had been unattended for more than 48 hours and the employee had reason to believe had been abandoned. A parking facility owner could remove a vehicle from a public roadway under the direction of a designated municipal employee.

The bill would remove the bracket allowing only cities with populations of 1.9 million or more to authorize employees other than peace officers to request tows under certain circumstances.

The bill would take effect on September 1, 2019.

SUBJECT: Allowing an affidavit authorizing a person to transfer real estate

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 9 ayes — Martinez Fischer, Darby, Beckley, Collier, Landgraf, Moody, Parker, Patterson, Shine

0 nays

WITNESSES: For — Steve Streiff, Texas Land Title Association; (*Registered, but did not testify*: Randy Lee, First American Title Insurance Company; Stephen Scurlock, Independent Bankers Association of Texas; J.D. Hale, Texas Association of Builders)

Against — (*Registered, but did not testify*: Bill Kelberlau)

BACKGROUND: Property Code ch. 12 provides for the recording of instruments concerning real and personal property in the public records of a county. An original signature is required on paper documents concerning the conveyance of real property.

Interested parties have suggested that given the complexity of certain business structures and the ease with which business entities may be created through online legal services, it is sometimes difficult to determine whether a given individual has authority to sell real property in the name of a business. In these circumstances, a means for providing certainty regarding real property transactions could be beneficial.

DIGEST: CSHB 1833 would allow a business entity to execute an affidavit identifying one or more individuals with authority to engage in a real estate transaction on the entity's behalf.

The bill would apply to any domestic entity governed by statute, except for domestic nonprofits exempt from federal taxation. Foreign entities could execute an affidavit under the bill provided that they were active or in good standing under the laws of their jurisdiction of formation and were not nonprofits exempt from federal taxation.

Affidavit. Affidavits authorized under the bill would have to state:

- the name of the domestic or foreign business entity that held title to the real property;
- the address, including the street address, of the business entity's principal place of business in the state or, if the entity did not have a place of business in the state, the address of the entity's principal place of business outside the state;
- the legal description of the real property to be transferred and the nature of the authorized transfer; and
- the name and title of one or more individuals authorized to transfer an estate or real estate interest on the entity's behalf.

Such affidavits would be executed under penalty of perjury by an individual who swore that the individual was at least 18 years old, authorized to act on behalf of the entity, and fully competent to execute the affidavit. The individual also would have to swear that the individual understood that third parties would rely on the truthfulness of the affidavit's statements and that the affidavit was made under penalty of perjury.

The affidavit could be recorded in the county clerk's office in the county in which the real property was located. The county clerk could collect a fee for recording the affidavit in the amount authorized for recording a transfer of real property.

Persons authorized to execute affidavit. Under the bill, an individual would be authorized to execute an affidavit on behalf of certain business entities if the individual held a certain position in the business, as specified in the bill, on the date the affidavit was executed.

The person executing the affidavit could not be the person authorized by the affidavit to transfer real property, unless the person was the sole partner in a limited partnership, sole member and manager in a limited liability company, or the sole shareholder, director, and officer of a corporation, as confirmed by the business entity's most recent franchise tax public information filing.

Safe harbor for third parties. An affidavit that complied with the bill's requirements and was filed with a county clerk's office would be conclusive proof of the factual matter stated in the affidavit. A bona fide purchaser or mortgagee for value, a successor or assign of purchaser or mortgagee for value, or a third party without actual knowledge that the representations contained in the affidavit were incorrect could conclusively rely on the affidavit. However, nothing in the bill would require a person to rely on such an affidavit.

A person who in good faith acted in reliance on an affidavit under the bill, without actual knowledge that the representations contained in the affidavit were incorrect, would not be liable to any person for that act and could assume without inquiry the existence of the facts contained in the affidavit.

The bill would take effect September 1, 2019.

SUBJECT: Allowing Rio Grande Valley counties to impose a vehicle registration fee

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Canales, Landgraf, Bernal, Y. Davis, Hefner, Krause, Leman, Martinez, Ortega

0 nays

4 absent — Goldman, Raney, Thierry, E. Thompson

WITNESSES: For — (*Registered, but did not testify*: Karen Rove, AGC of Texas Highway Heavy)

Against — (*Registered, but did not testify*: Terri Hall, Texas TURF and Texans for Toll-Free Highways; Don Dixon; CJ Grisham; Stephanie Ingersoll)

On — (*Registered, but did not testify*: Jeremiah Kuntz, Texas Department of Motor Vehicles)

DIGEST: HB 1666 would allow the commissioners court of any county that borders both Mexico and the Gulf of Mexico or that borders one of those counties (Cameron, Willacy, Hidalgo) to impose an additional fee of $2 for a vehicle registered in the county if approved by voters in the county.

The fee would be collected at the same time that other vehicle registration fees were collected. A vehicle that could otherwise be registered without the payment of a fee would be allowed to be registered without the additional fee associated with this bill.

A county would send 50 percent of the fee revenue collected to a regional planning commission, council of governments, or similar regional planning agency. The use of fee revenue by these organizations would be restricted to funding public transportation services.

A county would send the other 50 percent of the fee revenue collected to

municipalities in the county, distributed in proportion to their populations. The use of fee revenue by a municipality would be restricted to funding road or drainage projects.

The Department of Motor Vehicles would be required to adopt rules necessary to administer the registration of a vehicle registered in a county that charges the fee.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1666 would allow the counties of the Rio Grande Valley to secure funding needed to improve their drainage, public transportation, and roads. Last June, the area was hit with an extreme rain event that caused extensive damage. County voters have approved a $190 million bond to pay for a drainage system upgrade, but cities and transit systems are struggling to recover. The bill would help these entities to prepare for future events.

The bill would require that any increase in fees be approved by the voters in an election, so concerns over excessive government charges are unjustified.

OPPONENTS SAY:

HB 1666 would represent an attempt by the Legislature to impose another fee on vehicle owners. Vehicles are taxed enough already, and the additional registration fee would bring no benefit to owners.